

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ERIC LYONS,</b>	:	<b>CIVIL ACTION NO. 1:12-CV-1357</b>
	:	
<b>Plaintiff,</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>JOHN WETZEL, <i>et al.</i>,</b>	:	
	:	
<b>Defendants.</b>	:	

**ORDER**

AND NOW, this 12th day of September, 2013, upon consideration of the report of United States Chief Magistrate Judge Martin C. Carlson (Doc. 52), recommending that plaintiff's motion for voluntary dismissal without prejudice (Doc. 45) and request for the court to rule on said motion (Doc. 51) be granted, and, following an independent review of the record, it appearing that the plaintiff is entitled to request voluntary dismissal of his own complaint under the circumstances and pursuant to Federal Rule of Civil Procedure 41(a)(1)(A), (see Doc. 52 at 2-3), and also that neither party has not objected to the magistrate judge's report and recommendation, and that there is no clear error on

the face of the record,<sup>1</sup> see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level”), it is hereby ORDERED that:

1. The report of the magistrate judge (Doc. 52) is ADOPTED in its entirety.
2. Plaintiff’s motion for voluntary dismissal without prejudice (Doc. 45) and motion for the court to rule on Doc. 45 (Doc. 51) are GRANTED.
3. Plaintiff’s complaint is DISMISSED without prejudice.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
CHRISTOPHER C. CONNER  
Chief Judge, Middle District of Pennsylvania

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<sup>1</sup> When parties fail to file timely objections to a magistrate judge’s report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to “afford some level of review to dispositive legal issues raised by the report.” Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that “the failure of a party to object to a magistrate’s legal conclusions may result in the loss of the right to de novo review in the district court”); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court’s review is conducted under the “plain error” standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The court has reviewed the magistrate judge’s report and recommendation in accordance with this Third Circuit directive.